

PRESENT:

Dr. Edgar V. Wallin, Chairman

Mr. J. Dale Patton, Vice-Chairman

Dr. William P. Brown

Mr. Russell J. Gulley

Mr. Reuben J. Waller, Jr.

Mr. Kirkland A. Turner, Secretary to the Commission, Planning Director

ALSO PRESENT:

Mr. William D. Dupler, Deputy County Administrator, County Administration

Mr. Carl D. Schlaudt, Planning Manager,

Community Development

Dr. David Pritchard, Implementation Coordinator,

For the Comprehensive Plan, County Administration

Mr. Glenn Larson, Assistant Director,

Plans and Information Section, Planning Department

Mr. Michael E. Tompkins, Assistant Director,

Development Review Section, Planning Department

Mr. Steven F. Haasch, Planning Manager,

Plans and Information Section, Planning Department

Ms. Bonnie L. Perdue, Clerk to the Commission,

Plans and Information Section, Planning Department

Ms. Stacy Taffer, Administrative Manager,

Plans and Information Section, Planning Department

Mr. Greg Allen, Planning Manager,

Development Review Section, Planning Department

Mr. Joe Feest, Planning Administrator,

Customer Assistance Team, Planning Department

Ms. Tara McGee, Assistant County Attorney,

County Attorney's Office

Ms. Jane Peterson, Planning and Special Projects Manager,

Development Review Section, Planning Department

Mr. Robert Clay, Planning and Special Projects Manager,

Development Review Section, Planning Department

Mr. Ray Cash, Senior Planner,

Development Review Section, Planning Department

Mr. Ryan Ramsey, Senior Planner,

Development Review Section, Planning Department

Ms. Teresa C. Davis, Planning and Special Projects Coordinator,

Development Review Section, Planning Department

Mr. Jesse Smith, Director,

Transportation Department

Mr. Scott Smedley, Director

Environmental Engineering Department

Mr. Doug Pritchard, Engineering Supervisor,

Environmental Engineering Department

Mr. Scott Dunn, Assistant Director,

Environmental Engineering Department

Mr. Bill Wright, Assistant Director,

Utilities Department

Mr. Randy Phelps, Principal Engineer,

Utilities Department

Mr. Dave Wolverton, Microcomputer Analyst

Information Systems Technology

Firefighter Greg Smith, Fire and Life Safety,

Fire and EMS Department

Ms. Meghan Coates, Budget Analyst,

Budget and Management

ASSEMBLY AND WORK SESSION.

Messrs. Wallin, Patton, Brown, Gulley and Waller and staff assembled at 3:00 p.m. in the Public Meeting Room, Chesterfield County Administration Building, 10001 Iron Bridge Road Chesterfield, VA, for a work session.

I. CALL TO ORDER.

II. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS, CHANGES IN THE ORDER OF PRESENTATION.

Mr. Gulley requested a new item be added at to the end of the agenda. The Commission resolved to include a new item, (14PJ0113) Rental Inspection Program at the end of the agenda. Mr. Turner requested the staff presentation topics be reviewed by the Commission to ensure they are on target.

- I. Call to Order
- II. Requests to Postpone Action, Emergency Additions, and Changes in the Order of Presentation.
- III. Review Upcoming Agendas. (Any rezonings or conditional uses scheduled for future meetings.)
- IV. Review Day's Agenda. (Any items listed for the 6:00 p.m. Sessions.)
- V. Work Program Review and Update.
- VI. Planning Commission Follow-Up Items List.
- VII. (13PJ0125) Comprehensive Plan General Steps Implementation Update-Phase.
- VIII. (14PJ0116/14PJ0120) Wind Energy System Policy & Ordinance Amendment.
- IX. (14PJ0141) County Staff Presentation: Virginia Stormwater Management Program.
- X. (14PJ0142) Planning Staff Presentation: Impacts of Deferring Cases.
- XI. Staff Topics for Presentation to the Commission.
- XII. (14PJ0113) Rental Inspection Program.

XIII. Other Discussion Items.

XIV. Recess.

III. REVIEW UPCOMING AGENDAS.

Ms. Jane Peterson apprised the Commission of the caseload agendas for March, April, May and June 2014.

IV. REVIEW DAY'S AGENDA.

Ms. Jane Peterson presented an overview of, and staff's recommendations for, requests to be considered at the 6:00 p.m. session.

V. WORK PROGRAM - REVIEW AND UPDATE. 🗈

Mr. Turner informed the Commission that the Board adopted the Code Amendment Relative to Temporary Family Health Care Units on February 12, 2014.

VI. PLANNING COMMISSION FOLLOW-UP ITEMS LIST. 🗈

There were no comments on items listed on the follow-up list.

VII. (13PJ0125) COMPREHENSIVE PLAN GENERAL STEPS IMPLEMENTATION UPDATE.

Dr. Pritchard apprised the Commission on the outstanding items left in Phase 1. The Utilities Ordinance goes to the Board for a Public Hearing on March 12, 2014. The Revitalization Strategy continues to be discussed at the Public Comment District meetings. Turnout has been good at these meetings with many constructive comments and these meetings conclude on March 5, 2014 in the Bermuda District. A debrief on the Public Comment meetings and an update on the Ettrick and Bon Air Special Area Plans and Infill will be presented to the Commission and Board sometime in March.

Of the initial Phase 2 items, all are in the starting stages and are scheduled to be completed on time.

In response to Mr. Gulley's question relative to alternative water sources, Dr. Pritchard replied this particular project addresses increasing water conservation and is more about the actual uses of water and promoting water conservation rather than addressing future supply needs. Mr. Gulley stated a large part of the focus and strategy of the Plan was to find alternative water sources. Increasing water conservation is only a small part of it.

Dr. Wallin requested that the topic of finding more water supplies and promoting water conservation be tied together and used as an educational component.

In response to Mr. Patton's question relative to water conservation during peak summer usage, Dr. Pritchard responded that the conservation and educational element is part of the Phase 2 project. Before this part of Phase 2 is initiated, staff will define what the approved conservation methods will be and present those to the Commission. Mike Likins with County Extension will then be the team leader and develop an educational component for the public. The water supply issue involves negotiations with regard to land use and requires discretion.

In response to Dr. Brown's question relative to additional water sources, Dr. Pritchard stated that looking for additional water sources for the County predates the Comprehensive Plan and is ongoing.

Dr. Wallin stated that we have to be careful when we say reducing water demand is more difficult than education. One of the challenges we will have is to help the public understand what appropriate uses are and to have citizens understand we don't want to do anything that will have a negative impact on our business or residential community.

Dr. Pritchard stated he might have been mistaken when he spoke. The difficultly he spoke of pertained to finding alternative water sources, not reducing water demands. He stated you have to know what you want to teach before you figure out how to teach it.

Mr. Gulley stated that he noticed very little difference in the cost of his water bill whether he was in or out of town. If you use 100 cubic feet or 300 cubic feet of water the cost is essentially the same. When he met with Utilities he asked about this and it is because of the base rate that's applied. If we ask citizens to reduce their water usage and their bill does not decrease accordingly, it offers no incentive for them to reduce their water consumption.

Dr. Pritchard advised that the water rate issue is in play and is up for consideration.

Dr. Wallin inquired about the infill development project and when it will be completed. There are questions about the actual definition of infill. Having this definition in clear terms will assist the Commission regarding cases.

Dr. Pritchard advised they are moving toward improving the web site to provide easier access. Once the design is completed it will be shown to the Commission.

VIII. (14PJ0116/14PJ0120) WIND ENERGY SYSTEM POLICY & ORDINANCE AMENDMENT.

Mr. Ray Cash provided an overview of the Wind Energy System Policy & Ordinance Amendment related memo provided to the Commission. The memo outlines the benchmarking research on the use of Wind Energy Systems (WES) at or below twenty (20) kW. Two areas were addressed; structural integrity and setbacks for structures on the same property. The benchmarking included twenty-four (24) Virginia localities, fifteen (15) of which have zoning ordinances that regulate Wind Energy Systems and seven (7) localities outside of Virginia that also have regulating ordinances. Of those, none of the localities had any requirements regarding setbacks from structures on the same property.

In response to a question from Mr. Gulley, Mr. Turner stated staff benchmarked with other jurisdictions and communicated with James Madison University, which has the responsibility for promulgating Wind Energy regulations in Virginia. It is their opinion that not having setbacks on the property where the turbine is located does not pose threats to people or properties. Mr. Turner stated that he feels that the Commission has taken appropriate steps to protect adjacent properties.

Mr. Gulley advised Mr. Cash he would like staff to go back and craft language to differentiate between private property and public property regarding fall zones.

The Commission directed staff to craft a potential amendment establishing a WES fall zone on public property so as to not impact any buildings, parking lots and athletic fields.

IX. (14PJ0141) COUNTY STAFF PRESENTATION: VIRGINIA STORMWATER MANAGEMENT PROGRAM.

Mr. Scott Smedley presented an overview of the Virginia Stormwater Management Program (VSMP). In July 2014, the transfer of VSMP responsibility will move from the State to the County and this applies to stormwater from all construction activities, encompassing both new and redevelopment projects. The Environmental Engineering Department (EE) will now be responsible for processing all applications and sending them to the State. This differs from the original plan which had developers completing applications by using an online system. Currently, the Department of Environmental Quality (DEQ) is doing this task. When EE takes over, the level of local effort will increase. A fee structure is in place within the regulations to help absorb the cost related to the work involved to implement the program and to help offset the fee the County has to pay DEQ.

In response to a question from Mr. Gulley relative to DEQ currently processing the applications, Mr. Smedley advised currently DEQ is performing these tasks. When the County takes over this task, we will have significantly more to do than what DEQ is currently doing. Their level of effort is minimal compared to what the County will do when we take over this project. This is an unfunded mandate and we will have to implement a fee structure to create funding to pay for this task. We have to pay DEQ as well.

In response to a question from Mr. Gulley relative to establishing penalties for violations, Mr. Smedley responded there is a section in the ordnance that has penalty criteria and it is up to \$32,000 per day.

EE will process all applications, enforce the Stormwater Management Ordinance, review prevention plans, inspect construction sites and oversee the Best Management Practice (BMP) maintenance. The current BMP maintenance program will be combined into the new VSMP program. Once this program is in place, the average fee per plan of development will increase \$2340.00 compared to the \$1800.00 per plan development we currently charge.

Anyone that was issued a permit between 2009 and July 2014, or has an active permit, can continue this permit for two (2) cycles until 2024 under the current regulatory requirements. Grandfathering will apply to anyone that has submitted a site plan, has plans that have been approved or anything that has a conceptual water quality plan associated with it that EE has approved. After July 1, 2014 new requirements must be met for any new construction project. The new technical criteria changes include three (3) areas; Water Quality/Quantity which is the Runoff Reduction Method, Channel Protection and Flood Protection. The new regulations that take place effective July 1, 2014 are more restrictive and will increase the cost of development overall. When a developer is looking at meeting the requirements for the BMP, there are currently fifteen (15), non-propriety, BMPs that can be used as shown in the presentation. The significance is there are many proprietary companies who have BMPs that developers use and those are not on the list of fifteen (15). Channel Protection includes three types; manmade channels, restored channels which are those restored back to a more natural state and natural channels. Under Flood Protection there are two types; localized flooding issues and non-localized flooding issues. These address flooding with stormwater retention.

In response to a question from Mr. Patton relative to the new technical criteria verses the old criteria, Mr. Smedley advised the new way is more restrictive. More pervious pavers will be necessary to meet the requirements. On the phosphorus end you are looking at a ten (10) per cent reduction going from meeting the current 0.45 standard, to 0.41. There are further requirements related to re-development depending on the land size. If it is less than one (1) acre, you need to reduce the phosphorus load by ten (10) per cent. If it is greater than one (1) acre you are looking at a twenty (20) per cent reduction of phosphorus.

In response to a question from Mr. Gulley relative to the current 0.22 phosphorus levels, Mr. Smedley said this would not affect our 0.22, as that is stricter.

The purpose of these new regulations is to mitigate phosphorus getting into the ground water and entering the Chesapeake Bay. The new regulations demand more infiltration and to accomplish this on a commercial site, more water storage; pervious pavers in the parking areas and bioretention cells or rain gardens may be required. Under the new regulations, you want more pervious areas to get more infiltration. Several smaller rain gardens or bio-retention cells are more desirable than one large BMP pond.

In response to a question from Mr. Gulley relative to how this would affect a large commercial site, Mr. Smedley replied that for a large commercial site the amount of water you need to store is more difficult to manage so smaller, bio-retention cells or rain gardens and pervious pavers in the parking areas are needed to reach the requirement.

In response to a question from Mr. Patton relative to phosphorus and nitrogen, Mr. Smedley advised the VSMP regulations only pertain to phosphorus. He advised there are restrictions on phosphorus in our state. The Bay is being used as a model around the country for TMDL development. Using this template will not cost the developer lots and there will be an open space where the large BMP pond would have been located.

In response to a question from Mr. Turner relative to the preservation of trees and mass grading Mr. Smedley responded this new method preserves more tree canopy.

In response to a question from Dr. Brown relative to bio-retention cells, Mr. Smedley responded if the rain gardens are located in a residential community and on commercial property in the Upper Swift Creek Watershed; the County is required to maintain them. If rain gardens are on commercial property not in the Upper Swift Creek Watershed, the developer is responsible for maintaining them.

In response to a question from Mr. Waller relative to the engineering community playing a positive role in the Upper Swift Creek, Mr. Smedley responded that as part of the VSMP process, the engineering community has not been included. Since this is not a County initiated process, it does not follow how we would typically see a process unfold.

In response to a question from Mr. Waller relative to State regulations, Mr. Smedley explained the State is inflexible regarding the language and how these regulations must be implemented. EE proposes to adopt the fee schedule in the State regulations to help the County offset operating cost related to this project.

In response to a question from Mr. Patton, relative to who has to participate with this new mandate, Mr. Smedley stated there is currently a bill pending in the House that will allow some of the most rural communities to be exempt from the regulations but Chesterfield is not part of this group.

In response to a question from Mr. Gulley relative to the allowable phosphorus load, Mr. Smedley stated that 0.41 is achievable for commercial developments and currently the plan that they have for the Chesapeake Bay Total Maximum Daily Load (TMDL), is heavy in Stream Restoration. The funding mechanism proposed will pay for the Stream Restoration projects. Originally, they were looking at a 0.28 load across the board for both commercial and residential. Mr. Smedley advised the 0.41 is achievable but the volume is more of a concern.

Mr. Gulley advised that when he was on the Watershed Management Committee (from 1992 – 1997) modeling was performed to insure that the development community could meet the proposed .22 lbs/per/acre for residential development in the Upper Swift Creek Reservoir. Modeling was also performed to determine if the development community could meet a standard of .44 lbs/per/acre for commercial development in the Upper Swift Creek Reservoir. It was determined that this standard could be met but that nothing lower than .44 was achievable for commercial development. Mr. Gulley stated that methods for removing phosphorus have improved over the years and he hoped that the .41 standard proposed by DEQ could be met for commercial development.

In response to a question from Mr. Waller relative to how it will be paid for, Mr. Smedley responded the VSMP will be paid for by the fee schedule in the ordinance. The Bay TMDL is different and he will present that to the Commission in April.

Mr. Gulley stated there had been some discussion on stream restoration in his district but this new implementation will decrease the budget to the point where they might not be able to complete that project. Mr. Smedley advised the current plan for the bay TMDL is heavy with stream restoration and the funding proposed would pay for those restorations.

Dr. Wallin stated he appreciated Mr. Smedley stepping up early to present these facts to the Commission as it will help them when it comes to the proffers issue.

The Commission recessed at 4:14 p.m. and reconvened at 4:20 p.m.

X. (14PJ0142) PLANNING STAFF PRESENTATION: IMPACTS OF DEFERRING CASES.

Ms. Jane Peterson gave a presentation to the Commission about the impacts of deferring cases and the behind the scene steps staff takes when a case is deferred. There are four (4) main areas of interest; processing a deferral, length of deferral time, early identification of cases necessitating deferrals and alternatives to deferral.

Processing a Deferral

There are five (5) basic steps staff goes through when processing a deferral. The first step is the documentation of the results. Results are tracked in the computer; Selectron and the webpage are updated. The second step is applicant notification. Staff sends a letter to the applicants that indicate the next public hearing date, advising them of any fee if applicable and the deadline submittal date. If the case is deferred thirty (30) to sixty (60) days, the deadline is the Monday following the public hearing. If the deferral is ninety (90) days and over, the filing deadline is

associated with the hearing deadline. The third step is advertisement. The public notice is updated, additional advertising for two (2) consecutive weeks in the newspaper and notification to the adjacent properties. The fourth step is case management. During this time staff negotiates new or revised conditions, organizes and attends community meetings, distributes case changes for comment, update reports, plans and graphics with any changes. The fifth step is processing the staff report through the administrative section which encompasses proofing, report compilation with plans and graphics, printing and distributing and posting on the Planning Department web page.

Length of Deferral Time

Following the Planning Commission meeting, staff typically has between three (3) to eight (8) business days to complete the next month's reports. Staff's goal is to provide the Commission with staff analyses two (2) weeks prior to the public hearing. During the time of the deferral, staff is performing case management tasks such as negotiating conditions, participating with community meetings, reviewing changes with other agencies and updating the staff report. If staff is delayed in completing the report, it impacts the final processing step performed by the administrative section.

Early Identification of Cases Necessitating Deferral

Deferrals can be an effective tool in avoiding the impacts of late case negotiations. Early identification and agreement to a deferral by the applicant and the Commissioner offers time for resolution. It also provides staff time for a full case evaluation, accommodates citizen participation and minimizes case addendums. Deferrals can create time management issues when late case negotiations for the current agenda reduce the time case managers have to devote to the upcoming month cases.

Alternative to Deferrals

For many years, applicants have been able to move their case off of a pending agenda prior to advertisement. This saves the applicant a deferral fee, benefits citizens who follow cases so they do not have to come out for a deferred case and allows time to determine the appropriate agenda placement. Delaying an application filing is appropriate when community input is beneficial and the applicant desires to work closely with the Commission to resolve any issues thereby making the public hearing a more fluid process.

In response to a question by Mr. Waller, Ms. Peterson verified that while encouraged, there is no requirement that the applicant have a community meeting or meet with the Commission prior to submitting their application.

Dr. Wallin stated he understands staff wants to be accommodating to applicants but he would like to see a break in the cycle of numerous deferrals and late addendums.

Mr. Patton stated many deferrals from last year were as a consequence of the cash proffer issue being decided by the Board.

Mr. Gulley stated that moving cases to a subsequent agenda has been an effective tool with applicants from his district.

Ms. Peterson advised the Commission she is open to any suggestions for improving the process.

XI. STAFF TOPICS FOR PRESENTATION TO THE COMMISSION.

Mr. Turner advised the Commission that the list of future staff presentations will be updated to reflect any changes discussed during the work session today.

XII. (14PJ0113) RENTAL INSPECTION PROGRAM.

Mr. Gulley advised he feels staff misunderstood his intent regarding rental property maintenance inspections. He never intended for rental inspections to occur inside the dwelling. His concern is as we enter into the revitalization aspect of the Comprehensive Plan, the complaints that he has encountered in his district relate to rental property and the condition of the exterior of the dwelling. Rental properties often have overgrown lawns, unpainted exteriors and are in need of exterior repair.

Ms. Tara McGee advised that overgrown lawns are a zoning issue and there are steps in place to address that by calling code enforcement. If the grass is not cut after the second notice, the County cuts it and puts a lien on the property for the amount of the bill. If the dwelling is not painted, file a complaint with Building Inspection and they will send a notice of violation to both tenants and landlords and will work the complaint until it comes into compliance. The County also has a proactive team going out into neighborhoods looking for this type of violation. The only thing not occurring today regarding the exterior of homes is the prevention of a renter or homeowner not mowing the grass or not painting the dwelling.

Mr. Gulley stated the pro-active team has their hands tied because the ordinances are not strong enough and cited an example of a homeowner that has not raked leaves in two (2) years. He feels we need to strengthen existing pro-active code enforcement.

Ms. McGee advised that to cover these items State laws, County ordinances and building codes must be changed to allow additional authority for things that are not covered today. The County is allowed to have more strict laws than what the State requires, but she was not certain how much more strict and through what authority.

Mr. Gulley requested that staff, in conjunction with the County Attorney's office, go back to the proactive team and find out what examples they encounter where they need more strict codes to enforce non-compliance.

In response to a question by Dr. Wallin relative to the combination of topics presented by staff, Mr. Turner agreed that the March staff topic on Property Management and the July staff topic, Zoning Code Enforcement, could be combined in the March staff presentation.

The Commission advised they will provide feedback to staff regarding the staff presentation list by February 25, 2014.

XIII. OTHER DISCUSSION ITEMS.

Mr. Waller stated regarding a case that will be heard tonight, Case 14SN0547, B B Hunt LLC, he feels there must have been some miscommunication between staff and the Commissioner. Page four, (4) in the Environmental section, deals with a requirement regarding a Natural Resources Inventory (NRI) on this property. Planning and Environmental Engineering probably thought that it was correctly interpreted, however it was misconstrued. The issue concerns an amendment verses

a rezoning or a conditional use and this is not a correct basis on which to determine the NRI and is not applicable to this amendment. After speaking with Environmental Engineering, while the language is not correct as stated, the case should not be deferred for this reason alone. This is an example of how a late hit addendum can create issues with staff reports.

Ms. McGee advised the Commission about the history of the case and how the broad language at the beginning of the staff report doesn't apply in this case and she can assist staff in a rewrite. At the time of the Environmental Engineering study, an intermittent stream was not taken into account as a NRI. Since the location is in the Upper Swift Creek Watershed, the stream should have been considered, however the facts of the case do not change. Staff will rewrite the staff report during the dinner hour.

Dr. Wallin requested that the language of the ordinance be reviewed and updated so this situation does not happen again. He appreciated Mr. Waller's attention to detail which brought this issue to light.

XIV. RECESS.

There being no further business to discuss, the Commission recessed the Afternoon Session at approximately 5:02 p.m., agreeing to immediately meet in the Executive Meeting Room for dinner; and reconvene in the Public Meeting Room at 6:00 p.m. for the public hearing.

5:00 P.M. DINNER - EXECUTIVE MEETING ROOM.

During dinner, there was general discussion on topics related to the Planning Commission.

6:00 P.M. PUBLIC HEARING.

I. INVOCATION.

Dr. Brown presented the invocation.

II. PLEDGE OF ALLEGIANCE TO THE FLAG OF UNITED STATES OF AMERICA.

Mr. Nicholas Haasch, 3rd grade student at Winterpock Elementary and member of Cub Scout Pack 2831, led the Commission in the Pledge of Allegiance to the Flag.

III. RECOGNIZING DR. WILLIAM P. BROWN AS 2013 CHAIRMAN OF THE PLANNING COMMISSION.

Dr. Wallin acknowledged Dr. Brown's service as 2013 Chairman of the Planning Commission and complimented him on his unique sense of humor and his absolute respect for individual differences, thereby making our citizens feel at ease when speaking at the podium. On motion of Dr. Wallin, seconded by Mr. Waller, the Commission adopted the following resolution:

DR. WILLIAM P. BROWN 2013 CHAIRMAN CHESTERFIELD COUNTY PLANNING COMMISSION

- WHEREAS, Dr. William P. Brown, Planning Commissioner representing the Dale District, served as Chairman of the Chesterfield County Planning Commission during 2013; and
- **WHEREAS, Dr. Brown** has guided the Commission in the implementation of "Moving Forward The Comprehensive Plan for Chesterfield County," the County's guiding document for future growth and development decisions, including development of the Revitalization Strategy and the Ettrick/VSU Special Area Plan; and
- **WHEREAS, Dr. Brown** directed efforts to develop code amendments which will enhance the quality of life, pertaining to banners, Bridge the Gap Part I, subdivisions, Technology Zones, temporary residential healthcare units, tree canopy requirements in the Upper Swift Creek area, variance criteria, and the keeping of chickens in residential districts; and
- **WHEREAS, Dr. Brown** also directed efforts to explore planning policy issues (including administrative review of subdivisions, alternative financial institutions, communication towers, family day care homes, and off-site parking leases) that affect the quality of life for County residents; and
- **WHEREAS, Dr. Brown** participated in numerous requests to accommodate new and expanded parks, including Battery Dantzler Park, Branch's Bluff Park, and Howlett Line Park; and
- **WHEREAS, Dr. Brown** directed the Commission's review of 163 zoning and plans review cases, including 42 cases in the Dale District; and
- **WHEREAS, Dr. Brown** was integrally involved in the ongoing policy discussion of applying cash proffers to zoning cases; and
- **WHEREAS, Dr. Brown** continued his personal commitment to meet and discuss issues of concern with County citizens and instilled this commitment upon his fellow Commissioners thereby providing fair and open access for all citizens; and
- **WHEREAS, Dr. Brown** displayed a congenial sense of humor and keen perspective during countless meetings and hearings, making the planning process more accessible and enjoyable for citizens and staff alike.
- **NOW, THEREFORE, BE IT RESOLVED, that the CHESTERFIELD COUNTY PLANNING COMMISSION**, on this **18**TH **DAY OF FEBRUARY 2014**, does hereby recognize and applaud the conscientious efforts and commitment to excellence displayed by **DR. WILLIAM P. BROWN**.
- AND, BE IT FURTHER RESOLVED, that a copy of this resolution be presented to DR. BROWN and that this resolution be permanently recorded among the papers of the PLANNING COMMISSION OF CHESTERFIELD COUNTY.
 - AYES: Messrs: Wallin, Patton, Gulley and Waller.

IV. REVIEW AGENDAS FOR UPCOMING MONTHS.

Mr. Kirk Turner apprised the Commission of the caseload agendas for, March, April, May and June 2014.

V. <u>REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE</u> ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

VI. APPROVAL OF PLANNING COMMISSION MINUTES.

January 23, 2014

Mr. Gulley noted that on page thirty (30), his name should be corrected to read Mr. Patton.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to approve the January 23, 2014, Planning Commission minutes as amended.

AYES: Messrs: Wallin, Patton, Brown and Waller.

ABSTAIN: Mr. Gulley.

VII. REVIEW MEETING PROCEDURES.

Mr. Kirk Turner reviewed the meeting procedures.

VIII. CITIZENS' COMMENT ON UNSCHEDULED MATTERS.

There were no citizens' comments on unscheduled matters.

Dr. Wallin explained the introduction of the stop light timer used to help keep track of time when there are a large number of speakers. Each individual speaker will have three (3) minutes to speak, if you represent a group, five (5) minutes. When the yellow light shows, there is one (1) minute left to speak. When the red light shows, the time is up and the speaker must finish. He has used a timer in other venues successfully so the Commission will give it a try.

IX. PUBLIC HEARING.

WITHDRAWAL BY APPLICANT - CONDITIONAL USE.

D. 14SN0557: In Matoaca Magisterial District, Julie and Chris Carden request conditional use to permit a group care facility incidental to a dwelling and amendment of zoning district map in a Residential (R-88) District on 1.6 acres known as 13501 Blue Heron Circle. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Residential Agricultural use (maximum of 0.5 dwellings per acre). Tax ID 730-626-5149.

Mr. Turner advised the Commission that the applicant withdrew Case 14SN0557 from consideration; and the Commission should acknowledge the withdrawal.

• <u>CONSENT ITEMS - CONDITIONAL USES AND CONDITIONAL USE PLANNED DEVELOPMENTS.</u>

B. 14SN0547*: In Midlothian Magisterial District, **B B Hunt LLC** requests amendment of conditional use planned development (Case 94SN0138) relative to outdoor uses, setbacks, buffers, hours of operation, density and building sizes and amendment of zoning district map in a Residential (R-9) District on 5 acres located in the southeast quadrant of North Woolridge Road and Charter Colony Parkway. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Medium-High Density Residential use (minimum 4.0 to 8.0 dwellings per acre). Tax ID 726-703-6454.

Dr. Wallin recommended moving this case to the end of the consent items due to the number of citizens requesting to speak.

C. <u>14SN0554</u>: In Bermuda Magisterial District, **Greg W. Meredith** requests conditional use to permit a business (commercial kennel) incidental to a dwelling and amendment of zoning district map in an Agricultural (A) District on 24.6 acres known as 2100 Coxendale Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Residential use (2.51-4 units/acre). Tax ID 799-661-7476.

The applicant, Mr. Greg W. Meredith, accepted staff's recommendation.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor if, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

On motion of Mr. Patton, seconded by Mr. Waller, the Commission resolved to recommend approval of Case 14SN0554, subject to the six (6) proffered conditions:

PROFFERED CONDITIONS

- 1. The Conditional Use shall be granted to and for Greg W. Meredith, exclusively, and shall not be transferable or run with the land. (P)
- 2. The Conditional Use shall be limited to the operation of a boarding kennel for a maximum of thirty-two (32) dogs. (P)
- 3. Areas associated with the keeping of animals shall be cleaned and made free of waste on a regular basis so as to eliminate odors and the proliferation of insects. (P)
- 4. One (1) sign shall be permitted to identify this use. Such sign shall not exceed one (1) square foot in area and shall not be illuminated. (P)

- 5. Sufficient on-site parking shall be provided so as to preclude on-street parking to accommodate this use. (P)
- 6. No additional run areas, structures or fenced areas shall be constructed to accommodate this use other than those existing areas and structures as shown on the plan prepared by Harvey L. Parks, Inc. dated November 14, 2008. In addition, the commercial kennel use shall be limited to the 1.46 acre area shown on the plan. (P)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

E. 14SN0558: In Midlothian Magisterial District, The Shoppes at Belvedere, LLC request conditional use to permit recreational establishments (commercial-indoor) plus conditional use planned development to permit use exceptions and amendment of zoning district map in a Neighborhood Business (C-2) District on 3.3 acres fronting 290 feet on the north line of Robious Road, 530 feet east of West Huguenot Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for High Density Residential use (minimum 8.0 to 12.0 dwellings per acre). Tax ID 741-714-3585.

Mr. Michael Rothermel, the applicant's representative, accepted staff's recommendations.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor if, or in opposition to, the request.

On motion of Mr. Waller, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 14SN0558 subject to the following proffered condition:

PROFERRED CONDITION

The Owner, pursuant to Section 15.2-2298 of the Code of Virginia (1950, as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffers the following condition for the property designated as Chesterfield County Tax ID 741-714-3585, containing a total of 3.3 acres (the "Property"), in connection with the approval of a Conditional Use Permit and Conditional Use Planned Development for the Property pursuant to Case 14SN0558.

In addition to the uses permitted on the Property in accordance with Case 02SN0214 and subsequent approvals from Chesterfield County, the following uses shall be permitted on the property:

- a. Liquor stores.
- b. Repair services, excluding motor vehicle repair.
- c. Schools commercial, trade, vocational and training.
- d. Secondhand and consignment stores, excluding motor vehicle consignment lots.

- e. Recreational establishments, commercial indoor, provided that:
 - i. This use shall not exceed 8,000 gross square feet on the request Property.(P)

(Staff Notes:

- 1. Uses outlined in subsections a. through d. are uses are permitted through a conditional use planned development. As such, these uses shall not occupy more than thirty (30) percent of the gross acreage of the total project.
- 2. Recreational establishments, commercial indoor uses are permitted through a conditional use.)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

B. 14SN0547*: In Midlothian Magisterial District, B B Hunt LLC requests amendment of conditional use planned development (Case 94SN0138) relative to outdoor uses, setbacks, buffers, hours of operation, density and building sizes and amendment of zoning district map in a Residential (R-9) District on 5 acres located in the southeast quadrant of North Woolridge Road and Charter Colony Parkway. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Medium-High Density Residential use (minimum 4.0 to 8.0 dwellings per acre). Tax ID 726-703-6454.

Mr. Ryan Ramsey provided an overview of the request and staff's recommendation for approval noting the land use; development standards and bulk requirement exceptions are compatible with existing anticipated area development. In addition, the applicant has proffered conditions that would provide an effective land use transition between the proposed development and the existing residential community, Bristol Village, to the south and east. Staff notes that subsequent to the advertisement of this case, the applicant withdrew a portion of the request that sought a reduction of the required buffer on the request property. Staff has also provided an addendum that provides a revision to the Environmental Engineering section, relative to the requirement of an actual resource inventory on the property.

Ms. Carrie Coyner, the applicant's representative, addressed the Commission and noted the zoning amendments do not change the permitted use of the property. The reduction in setbacks from Charter Colony Parkway and Woolridge Road are compensated with the provision of additional landscaping and street lighting. The square footage for the building is now at a maximum of 15,500 square feet as opposed to the original 5,000 square feet. They have partnered with the Midlothian Village Coalition to make sure the architectural standards are met and the Coalition supports this project. The hours of operation have been amended to have a close time of eleven (11) p.m. to allow for small coffee shops or restaurants.

Benefits include the need for a quality day care provider for the community, once the project is complete, it will begin to generate funds for the Charter Colony Foundation. Once the project is at full build out, it will contribute \$5728 annually to the foundation and Chesterfield County will realize more property taxes which are estimated at \$32,024. The integration of this project will blend in well with the Midlothian Village. There is a need for a retaining wall with this project and the wall that is being proposed includes a natural vegetation cover that will blend in with the grass and tree line.

Dr. Wallin opened the floor for public comments.

Mr. David Kryliski, representing the Bristol Village Board of Directors, expressed opposition to the eleven (11) p.m. closing hours, the twenty-four (24) hour ATM, and the stage and a pavilion being built behind the day care center. The extended closing hours and the twenty-four (24) hour ATM could pose a security issue for Bristol Village. The stage and pavilion could create noise issues for residents of Bristol Village.

Mr. Peppy Jones, Chairman of the Midlothian Village Volunteer Coalition, expressed support for the project citing the development company has provided many quality works and he is confident this development will be an asset for the Midlothian area.

Ms. Sandra Mitchell, resident of Charter Colony, opposes the expansion of this project. Her concern relates to the further encroachment of wetlands near this property. In addition, she expressed concerns relative to the intersection being highly congested making left hand turns difficult and the lack of need for any additional day care facilities and banks as there are two (2) day care centers within two (2) miles of the proposed new day care and there are five (5) banks within five (5) miles of the proposed property.

Ms. Carrie Coyner offered additional comments to address the public concerns voiced by Mr. Kryliski and Ms. Mitchell. The pavilion is associated with the day care provider and that business is proposed to close at six (6) p.m. therefore making evening noise from the pavilion a non-issue. In addition, there will be a tall fence preventing views of the pavilion by residents of Bristol Village. As part of the overall development, impact to all wetlands in the development has been mitigated so there is no additional impact. A raised median will be installed at the intersection and residents in the Charter Colony neighborhood understand the concept of a right turn in and right turn out entrances. Should the right turn situation be an issue for commercial users, they will not locate there; users that are comfortable with this traffic pattern will be attracted to the location. There is a lot of connectivity in the neighborhood so they are confident that parents will be comfortable with the right turn in and right turn out for the day care.

There being no one else to speak, Dr. Wallin closed the public hearing.

In response to a question by Mr. Waller relative to the hours of operation of the proposed day care, Ms. Coyner stated most commercial day care providers open at six (6) a.m. and close the facilities between six (6) and seven (7) p.m., based upon the needs in their area, so there were no limits placed on the hours the day care would close.

Mr. Waller advised staff has worked diligently on this case. There were two (2) field inspections with staff and Environmental Engineering and meetings with the Board of Directors from the Bristol Village HOA. Regarding some of the expressed concerns, the intersection of Woolridge Road and Charter Colony has become more commercialized than what was envisioned when the original case was approved. Regarding ATM's, there will be no freestanding ATM's on this project. The only ATM's allowed are in co-location with the bank and it is not seen as a problem

The wetlands issue was addressed this afternoon with the National Resource Inventory and the vesting of the RPA's and related wetland issues. It is well documented the applicant complies with all rules regarding wetlands as they currently exist. This location is a prime spot for day cares, banks and restaurants. While it is noted that other similar establishments are in the area, the market will determine how many it will support of a similar kind. He is in favor of the tree lined

buffers and sidewalks that create a village feel as well as the commercial modifications to the project and he supports the case.

Mr. Gulley stated he could not agree with the speakers regarding issues with the wetlands or ATM's and will support the case.

Mr. Patton stated the case was well presented and he supports it.

Dr. Brown advised he supports the case and feels it's a quality product.

Dr. Wallin advised he walked the property with Mr. Waller and staff to view any environmental issues. He supports the case and is confident that Mr. Waller has turned every stone to make sure this is an appropriate use for this property.

Mr. Waller advised that he would like to add an addendum to attach and make part of this case that will clarify wetland issues. The addendum will include a revision to the Environmental Engineering section regarding drainage and erosion for the requested property.

On motion of Mr. Waller, seconded by Dr. Brown, the Commission resolved to recommend approval of Case 14SN0547 subject to the eight (8) proffered conditions and language in the addendum relating to the revision to the Environmental Engineering Section regarding drainage and erosion for the request property and to acknowledge withdrawal of the reduction of required buffers on the requested property:

PROFFERED CONDITIONS

The Applicant in this case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property known as Chesterfield County Tax Identification Number 726-703-6454 ("the Property") under consideration will be developed according to the following amended proffers if, and only if, the request submitted herewith is granted with only those conditions agreed to by the Applicant. In the event this request is denied or approved with conditions not agreed to by the owner and Applicant, the proffers shall immediately be null and void and of no further force or effect.

The Textual Statement, last revised June 28, 1994 and approved with Case 94SN0138, shall be amended as outlined below. All other conditions of the Textual Statement, last revised June 28, 1994 shall remain in force and effect:

- 1. <u>Master Plan</u>. The Textual Statement dated February 6, 2014 shall be considered the Master Plan. (P)
- 2. <u>Street Lighting</u>. The developer shall be responsible for installing Street lights along Woolridge Road and Charter Colony Parkway that are compatible with the goose neck lighting provided throughout Charter Colony. This lighting shall not be placed in front of the Subdivision signage located on the corner of Woolridge Road and Charter Colony Parkway. (P)
- 3. <u>Timber Management</u>. Timber management, for the purpose of enhancing the health and viability of the forest, shall occur under the supervision of a

qualified forester, and will only be allowed upon the submission and approval of the appropriate forest management plan to include, but not limited to, erosion control, Chesapeake Bay Act/wetland restrictions, and the issuance of a land disturbance permit by the Environmental Engineering Department. Any other timbering shall be incorporated into the site development erosion and sediment control plan/narrative as the initial phase of infrastructure construction and will not commence until the issuance of the actual site development land disturbance permit. (EE)

- 4. <u>Storm Water Detention</u>. A storm water detention system shall be used onsite in order to meet the pre-development 2 and 10 year runoff rates. This can be accomplished through oversized storm sewer pipes, underground storage tanks, permeable pavement, or traditional BMP's which will be determined during the Site Plan Design and Review Process. (EE)
- 5. <u>Onsite Storm Sewer</u>. The onsite storm sewer diameter will be increased beyond standard design policy to the extent necessary for there to be no hydraulic impact on the Woolridge culvert and riser system. (EE)
- 6. Retaining Wall. The retaining wall adjacent to Bristol Village will be designed so that it does not cause flooding to a greater extent than what may already exist. An analysis suitable to the Environmental Engineering Department shall be made a part of the site plan. (EE)
- 7. Existing Channel Treatment. The connection between the outlet end of the Woolridge Road culvert and the onsite storm sewer shall be made via a replacement of existing rip rap with a paved channel cross section or continuous storm sewer. The erosion control plan shall specify the implementation of this storm sewer as the first step in the development of the property or at as early a phase in the construction process as is practicable. (EE)
- 8. <u>Pollutant Removal</u>. To the extent that the required pollutant removal is not achieved on site, the remaining level of pollutant removal will come from regional BMP LTC 20/25 into which this project drains and which the County plans to construct. (EE)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

• REZONING AND CONDITIONAL USE PLANNED DEVELOPMENT – OTHER.

A. <u>13SN0125*</u>: In Clover Hill Magisterial District, **Viridis Development Corporation** requests amendment of zoning (Case 06SN0127) to eliminate cash proffers and increase density and amendment of zoning district map in a Residential (R-12) District on 22.6 acres lying at the northern terminus of Vickilee Road, the western terminus of Marblethorpe Road, the eastern terminus of North Vickilee Road and Vickilee Court. Residential use of up to 3.63 units per acre is permitted in the Residential (R-7) District. The Comprehensive Plan suggests the property is appropriate for Residential use of 2.5 dwellings per acre or less. Tax IDs 746-699-8830; and 747-699-0744, 1248, 1750, 2453, 3040 and 4454.

Mr. Robert Clay provided an overview of the request and staff's recommendation for approval for increased density and denial to eliminate the cash proffers. The property was zoned in 2006 with conditions that limited density should the property develop with sole access through adjacent subdivisions and with proffers that address the impact of the development on capital facilities. An approved tentative subdivision plan shows sole access through Forrest Acres subdivision. Three (3) additional lots, two resulting from a re-subdivision with adjacent lots, are proposed, increasing the project density from 2.1 dwelling units per acre, to 2.16. The applicant has also requested deletion of proffers that address the impact on capital facilities. In lieu of the cash proffer, the applicant has offered an in-kind transportation improvement which is a north bound, right turn lane on Courthouse Road. The proposed density increase complies with the Plan and the in-kind improvements address the impacts on transportation. Impacts on schools, parks, libraries and fire stations are not addressed.

In response to a question by Mr. Patton relative to the deceleration lane on Courthouse Road and the right of way, Mr. Jesse Smith stated that due to the widening of the road in that area, there will not be any additional right of way required.

Ms. Carrie Coyner, the applicant's representative, said this is a great example of infill development. This project is surrounded by neighborhoods that are older and the infrastructure is already in place to support it within three (3) miles of the site. The fifty (50) homes in this development will not have any additional impacts on schools, fire, libraries and parks. Proffers are voluntary and this development would not create additional demands on infrastructure. The project is located around property that is already zoned R-7 and R-9. The applicant is not requesting any exceptions be made regarding environmental issues for this project. They did proffer transportation improvements such as the turn lane on Courthouse Road and they have also provided for drainage improvements for this older community. This is an example of positive impacts on an older community and would request recommendation of approval to the Board.

Dr. Wallin opened the floor for public comments.

Mr. Paul Graswicz stated the case has been before the Commission seven (7) times providing opportunity to align the case with the County's cash proffer policy. He believes that the impacts of smaller lot developments is cumulative; that infill is not addressed in the cash proffer policy; and that the burden for the capital facilities should be partially shouldered by the developer.

Mr. Bob Olsen indicates cash proffers pay for area public facility construction and renovations and that the developer should pay the cash proffers for this project. He wants the burden taken off of tax payers for cash proffers not being paid by developers.

Mr. George Rogerson, resident of Woodlake and President of the Woodlake Community Association's Board of Directors, requests the Commission not allow the developer to be relieved of the cash proffer responsibility or be given a reduction of cash proffers. Woodlake would like the Commission to deny the applicant's request.

Ms. Carrie Coyner stated that there is a great divide between the east and the west and proffers. There are no young families living in the aged out communities. This project has no impact on services and the applicant requests approval of the case with the stated proffered conditions.

There being no one else to speak, Dr. Wallin closed the public hearing.

In response to a question by Mr. Gulley, Mr. Smith stated that Transportation is satisfied with the case relative to the provision of the turn lane noting if Transportation was to build this improvement, it would take time to accrue the money.

Mr. Gulley stated he feels strongly about cash proffers. While talking with Budget Management, he discussed the topic of infill development. He was told that the cash proffer policy allows for infill development. When the staff report came out about this case, he was surprised to learn that Budget Management did not recommend approval for this infill case. In aging neighborhoods, price point homes are needed to bring back younger home buyers. The schools in the aging neighborhoods are seeing a decline in enrollment. While he feels strongly about the need to see cash proffers paid by developers, infill development is essential to bring life back into our aged communities. Revitalization takes time to see results and infill development is one method to help begin the process, so he will support this case.

Dr. Brown stated he cannot support this case even though he agrees that infill development is something that should be encouraged. The Board has not yet made any changes to the cash proffer policy so it must be interpreted as written. The developer proposes to pay zero dollars towards schools, fire, libraries and parks. While area facilities like the schools may not need the full cash proffer of \$9000 per home built, they warrant some funding rather than zero funding.

Mr. Waller asked if anyone from schools was present, and they were not. He feels schools should be present at Planning Commission meetings to address the questions about infill development, cash proffer impacts on schools and any other schools related questions. He stated that at one time, Courthouse Road would not have been considered infill but Courthouse Road, south of Rt. 60, toward the Powhite Parkway, over the past five (5) years or more has become an infill area. The Board adopted the Comprehensive Plan and has not made any cash proffer policy adjustments to address infill development.

In response to a question from Mr. Waller relative to Budget clarifying the cash proffers and how it relates to revitalization, Mr. Turner advised that Budget was to address this issue in the May/June 2014 timeframe.

In response to a question from Mr. Waller relative to Proffered Condition (2) in this case, Mr. Smith stated the applicant would have to provide the improvement within the existing right of way, which in this case would mean adjusting the design of the project to provide curb and gutter. This should not result in the reduction of lot size.

Mr. Waller advised he will support this case but would appreciate clarification from the Board regarding cash proffers and infill development and he would like the see Schools represented at Planning Commission meetings.

Mr. Patton advised he feels this neighborhood is in need of infill development and will support the case.

Dr. Wallin stated this case is most conflicting and the comments made by the applicant's representative regarding this project not impacting schools in the area of development are not accurate as the entire school system has to be looked at, not just one area. All of the facts and figures related to housing, new starts and resale related to cash proffers are different now than it was two (2) or three (3) years ago. There is a need to create incentives for revitalization or infill

development but at this time, the Commission does not have a good working description of infill development. In the absence of appropriate direction from Budget Management, and the absence of a real definition of infill development, combined with his belief that we need to reinvest in communities, he will support the case.

On motion of Mr. Gulley, seconded by Mr. Waller, the Commission, on their own motion, resolved to recommend approval of Case 13SN0125 subject to the proffered conditions:

PROFFERED CONDITIONS

- 1. Any residential lots having sole access through Forest Acres Subdivision shall have an average lot size of 17,400 square feet. There shall be no more than 50 lots if sole access is provided through Forest Acres Subdivision. (P)(Note: This proffered condition replaces Proffered Condition 8 of Case 06SN0127.)
- 2. In conjunction with development of the initial section, the Developer shall construct a northbound right turn lane along Courthouse Road at Cherylann Road. The exact design of this improvement shall be approved by the Transportation Department. The developer shall be responsible for dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for this improvement. In the event the Developer is unable to acquire any "off-site" right-of-way that is necessary for this improvement, the Developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Developer. (T) (Note: This proffered condition is in addition to Proffered Conditions of Case 06SN0127. In addition, should this request be approved, Proffered Condition 2 of Case 06SN0127 (Cash Proffer) would be deleted. All other conditions of approval for Case 06SN0127 would remain in effect.)

AYES: Messrs: Wallin, Patton, Gulley and Waller.

NAYES: Dr. Brown.

X. <u>CITIZEN COMMENTS ON UNSCHEDULED MATTERS.</u>

There were no citizen comments on unscheduled matters.

XI. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Gulley, seconded by Dr. Brown that the meeting adjourned at 8:02 p.m. to Thursday, February 20, 2014 at 6:00: p.m., in the Public Meeting Room, 10001 Iron Bridge Road, Chesterfield, Virginia.

Chairman/Date	Secretary/Date